

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
NORTHERN DIVISION**

**THOMAS C. CREWS,**

**Plaintiff,**

**v.**

**NATIONAL BOAT OWNERS  
ASSOCIATION (NBOA) MARINE  
INSURANCE AGENCY, INC; MARKEL  
AMERICAN INSURANCE COMPANY;  
and JACKIE ASHE, individually and as  
agent for the NATIONAL BOAT OWNERS  
ASSOCIATION MARINE INSURANCE  
AGENCY, INC. ,**

**Defendants.**

**CV- 2:05-cv-1057-F**

**MARKEL AMERICAN INSURANCE COMPANY'S MOTION TO  
STAY PRELIMINARY DISCOVERY REQUIREMENTS**

Without waiving, but specifically reserving its right to compel this proceeding to binding arbitration, Defendant Markel American Insurance Company ("Markel") moves this Honorable Court to enter an Order (1) staying the parties' requirements to conduct a Fed. R. Civ. P. 26(f) planning conference, (2) staying the entry of a scheduling order and (3) staying the defendants' requirement to file a corporate disclosure statement under Fed. R. Civ. P. 7.1 until such time as this Court has ruled upon the motion to remand filed by Plaintiff and the motion to compel arbitration to be filed by Markel. As grounds for this motion, Markel states as follows:

1. This action was filed in the Circuit Court of Montgomery County, Alabama on August 29, 2005. On November 1, 2005, this action was removed to this Court. Plaintiff thereafter moved to remand this action back to state court. If Plaintiff's motion to remand is granted, that order would be dispositive of the proceedings in this Court.

2. Although the Court has not yet ruled on the motion to remand, Plaintiff has requested a planning conference to be held pursuant to Rule 26(f). Rule 26(f) provides that a planning conference must be held at least 21 days before a scheduling conference is held or a scheduling order is due under Fed. R. Civ. P. 16(b). Pursuant to Rule 16(b), a scheduling order “shall issue ... within 90 days after the appearance of a defendant and within 120 days after the complaint has been served on the defendant.”

3. In addition to the motion to remand pending before the Court, the contract for insurance signed by Plaintiff Thomas Crews contains a binding and valid arbitration provision. Markel intends to file a motion to compel arbitration pending the Court’s ruling on the motion to remand. If the motion is granted, this action will be dismissed and Plaintiff will have to file a complaint in arbitration pursuant to the terms of the arbitration provision contained in the contract for insurance that he executed.

4. Because the aforementioned motions will, if granted, be dispositive of the proceedings in this Court, the interest of justice and judicial economy will best be served by an Order staying the preliminary discovery requirements of the Federal Rules. All parties would incur substantial cost and expense in complying with the preliminary discovery requirements imposed by the Federal Rules. If either motion is granted, such cost and expense would be rendered unnecessary. The Court, nor any party to this action, would be benefited by participating in wasteful and unnecessary discovery.

WHEREFORE, PREMISES CONSIDERED, Markel respectfully requests that this Court enter an Order staying the preliminary discovery requirements imposed by the Federal Rules (and specifically identified above) until such time as it has ruled on Plaintiff’s motion to remand and the motion to compel arbitration to be filed by Markel.

Respectfully submitted this the 29th day of December, 2005.

/s/ Paul A. Clark

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**CERTIFICATE OF SERVICE**

I hereby certify that on December 29, 2005, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the attorneys of record.

Respectfully submitted,

/s/ Paul A. Clark

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